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Intellectual Property Causes
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Attorney Docket No. P25088

In re application of: Werner BERENS et al.

Application No. : 10/820,869

Mail Stop Amendment

Group Art Unit: 1615

Filed : April 9, 2004

Examiner: Venkat, Jyothsna A.

For : USE OF ONE OR SEVERAL SUBSTANCES SELECTED FROM THE GROUP OF PYRIMIDINES AND PURINES IN COSMETIC PREPARATIONS FOR COLORING HAIR

Mail Stop Amendment

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Transmitted herewith is an **Election with Traverse** in the above-captioned application.

- Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.
- A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.
- A Request for Extension of Time.
- No additional fee is required.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 38	38	0	x 9=	\$	x 18=	\$0.00
Indep. Claims: 3	3	0	x 44=	\$	x 88=	\$0.00
Multiple Dependent Claims Presented			+150=	\$	+300=	\$0.00
Extension Fees for _____ Month(s)				\$		\$0.00
			Total:	\$	Total:	\$0.00

 Please charge my Deposit Account No. 19-0089 in the amount of \$_____. N/A A check in the amount of \$_____ to cover the filing/extension fee is included. X The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089. X Any additional filing fees required under 37 C.F.R. 1.16. X Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 C.F.R. 1.136(a)(3)).

Werner
Neil F. Greenblum *Heribert F. Muensterer*
Reg. No. 28,394 Reg. No. 50,417

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Werner BERENS et al.

Confirmation No. 9283

Group Art Unit: 1615

Appl. No. : 10/820,869

Examiner: Venkat, Jyothsna A.

Filed : April 9, 2004

For : USE OF ONE OR SEVERAL SUBSTANCES SELECTED FROM THE GROUP OF PYRIMIDINES AND PURINES IN COSMETIC PREPARATIONS FOR COLORING HAIR

ELECTION WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Amendment
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This is in response to the requirement for restriction under 35 U.S.C. § 121 mailed from the U.S. Patent and Trademark Office on January 14, 2005. Inasmuch as the one-month shortened statutory period is originally set in the Office Action to expire on February 14, 2005, this response is being filed by the initial due date for response and no extension of time is believed necessary. However, if any extension of time is deemed necessary, this is an express request for any necessary extension of time and authorization

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to charge any required extension of time fee or any other fees which may be required to preserve the pendency of the present application to Deposit Account No. 19-0089.

RESTRICTION REQUIREMENT

The Examiner has required restriction to one of the following inventions:

- I. Claims 7, 10, 11, 29 and 32-33, drawn to composition and a method of at least one of intensifying natural hair color and stimulating melanogenesis using purines, classified in class 514, subclass 261.
- II. Claims 8-9, 12-13, 23, 30-31 and 33-34, drawn to composition and a method of at least one of intensifying natural hair color and stimulating melanogenesis using pyrimidines classified in class 514, subclass 256.

ELECTION

In order to be responsive to the requirement for restriction, Applicants elect, with traverse the invention set forth in claims 7, 10, 11, 29 and 32-33 (Invention I as identified in the Restriction Requirement).

TRAVERSE

Applicants respectfully submit that a restriction is inappropriate in this case. In particular, the searches for the two different inventions identified in the present

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requirement for restriction should overlap significantly. While the structures of purines and pyrimidines are different, both classes of compounds comprise aromatic heterocycles with at least two nitrogen atoms as the principal structural unit. Accordingly, many documents that mention one of these two classes of compounds will likely also mention the other class and thus the search burden would not appear to be serious if both inventions had to be searched at the same time. While Applicants acknowledge that there will be no complete identity of the searches, it is Applicants' position that the non-overlapping parts of the searches would not give rise to a serious search burden.

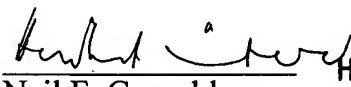
Applicants also note that, as already acknowledged by the Examiner, if any of the linking claims 1-6, 14-22, 24-28 and 35-40 are found to be allowable, the Restriction Requirement will have to be withdrawn and all of the non-elected claims depending from or otherwise including all of the limitations of the allowable linking claim(s) will also be entitled to examination in the instant application.

In view of the foregoing, Applicants respectfully request that the Restriction Requirement be reconsidered and withdrawn, for at least the reasons set forth above.

Should there be any questions, the Examiner is respectfully invited to telephone the undersigned at the telephone number below.

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Respectfully submitted,
Werner BERENS et al.


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February 11, 2005
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